

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ADAM GOBER,

Plaintiff,

v.

SANDRA ROSE,

Defendant.

Case No. 3:20-cv-00593-GMN-WGC

ORDER

This action is a *pro se* civil rights action filed pursuant to 42 U.S.C. § 1983 by a prisoner in the custody of the Nevada Department of Corrections. On June 11, 2021, the Court issued an order dismissing his complaint with leave to amend his access to the courts claim. (ECF No. 8 at 9). The time period for filing an amended complaint has now expired, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856

1 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring
2 *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833
3 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*
4 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
5 failure to comply with local rules).

6 In determining whether to dismiss an action for lack of prosecution, failure to obey
7 a court order, or failure to comply with local rules, the court must consider several factors:
8 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
9 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
10 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
11 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
12 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

13 In the instant case, the Court finds that the first two factors, the public's interest in
14 expeditiously resolving this litigation and the Court's interest in managing the docket,
15 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs
16 in favor of dismissal, since a presumption of injury arises from the occurrence of
17 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
18 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy
19 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor
20 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
21 the court's order will result in dismissal satisfies the "consideration of alternatives"
22 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
23 F.2d at 1424. The Court's order requiring Plaintiff to file an amended complaint within
24 thirty days expressly warned Plaintiff that this action would be dismissed with prejudice if
25 he failed to file a timely amended complaint. (ECF No. 8 at 9). Thus, Plaintiff had
26 adequate warning that dismissal would result from his noncompliance with the Court's
27 order to file an amended complaint within thirty days.

28 For the foregoing reasons, it is ordered that this action is dismissed with prejudice

1 based on Plaintiff's failure to file an amended complaint in compliance with this Court's
2 June 11, 2021 order and for failure to state a claim.

3 It is further ordered that the Clerk of Court shall enter judgment accordingly and
4 close this case.

5 DATED THIS 2 day of August 2021.

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UNITED STATES DISTRICT JUDGE
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